

AMENDED IN ASSEMBLY JULY 8, 2003

AMENDED IN SENATE APRIL 22, 2003

**SENATE BILL**

**No. 993**

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**Introduced by Senator Poochigian**

February 21, 2003

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An act to amend Section 602 of the Penal Code, relating to trespass.

LEGISLATIVE COUNSEL'S DIGEST

SB 993, as amended, Poochigian. ~~Criminal threats~~ *Trespass*.

Existing law makes it a misdemeanor to willfully commit a trespass by engaging in specified acts, including, entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any of those lands, whether covered by water or not, without the license of the owner or legal occupant; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

This bill would make it a trespass to enter upon lands or buildings owned by any other person *without the license of the owner or legal occupant, where signs forbidding trespass are displayed, and* whereon cattle, goats, pigs, *sheep*, fowl, or any other animal is being raised, bred, fed, or held for the purpose of food for human consumption; or to injure, gather, or carry away any animal being housed on any of those lands, without the license of the owner or legal occupant; or to damage, destroy, or remove, or cause to be removed, damaged or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and

limits of any of those lands. By increasing the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 602 of the Penal Code is amended to  
2 read:
- 3 602. Except as provided in Section 602.8, every person who  
4 willfully commits a trespass by any of the following acts is guilty  
5 of a misdemeanor:
- 6 (a) Cutting down, destroying, or injuring any kind of wood or  
7 timber standing or growing upon the lands of another.
- 8 (b) Carrying away any kind of wood or timber lying on those  
9 lands.
- 10 (c) Maliciously injuring or severing from the freehold of  
11 another anything attached to it, or its produce.
- 12 (d) Digging, taking, or carrying away from any lot situated  
13 within the limits of any incorporated city, without the license of the  
14 owner or legal occupant, any earth, soil, or stone.
- 15 (e) Digging, taking, or carrying away from land in any city or  
16 town laid down on the map or plan of the city, or otherwise  
17 recognized or established as a street, alley, avenue, or park,  
18 without the license of the proper authorities, any earth, soil, or  
19 stone.
- 20 (f) Maliciously tearing down, damaging, mutilating, or  
21 destroying any sign, signboard, or notice placed upon, or affixed  
22 to, any property belonging to the state, or to any city, county, city  
23 and county, town or village, or upon any property of any person,  
24 by the state or by an automobile association, which sign, signboard  
25 or notice is intended to indicate or designate a road, or a highway,  
26 or is intended to direct travelers from one point to another, or  
27 relates to fires, fire control, or any other matter involving the



1 protection of the property, or putting up, affixing, fastening,  
2 printing, or painting upon any property belonging to the state, or  
3 to any city, county, town, or village, or dedicated to the public, or  
4 upon any property of any person, without license from the owner,  
5 any notice, advertisement, or designation of, or any name for any  
6 commodity, whether for sale or otherwise, or any picture, sign, or  
7 device intended to call attention to it.

8 (g) Entering upon any lands owned by any other person  
9 whereon oysters or other shellfish are planted or growing; or  
10 injuring, gathering, or carrying away any oysters or other shellfish  
11 planted, growing, or on any of those lands, whether covered by  
12 water or not, without the license of the owner or legal occupant;  
13 or damaging, destroying, or removing, or causing to be removed,  
14 damaged, or destroyed, any stakes, marks, fences, or signs  
15 intended to designate the boundaries and limits of any of those  
16 lands.

17 (h) (1) Entering upon lands or buildings owned by any other  
18 person *without the license of the owner or legal occupant, where*  
19 *signs forbidding trespass are displayed, and* whereon cattle, goats,  
20 pigs, *sheep*, fowl, or any other animal is being raised, bred, fed,  
21 or held for the purpose of food for human consumption; or  
22 injuring, gathering, or carrying away any animal being housed on  
23 any of those lands, without the license of the owner or legal  
24 occupant; or damaging, destroying, or removing, or causing to be  
25 removed, damaged, or destroyed, any stakes, marks, fences, or  
26 signs intended to designate the boundaries and limits of any of  
27 those lands.

28 (2) *This subdivision shall not be construed to preclude*  
29 *prosecution or punishment under any other provision of law,*  
30 *including, but not limited to, grand theft or any provision that*  
31 *provides for a greater penalty or longer term of imprisonment.*

32 (i) Willfully opening, tearing down, or otherwise destroying  
33 any fence on the enclosed land of another, or opening any gate, bar,  
34 or fence of another and willfully leaving it open without the  
35 written permission of the owner, or maliciously tearing down,  
36 mutilating, or destroying any sign, signboard, or other notice  
37 forbidding shooting on private property.

38 (j) Building fires upon any lands owned by another where signs  
39 forbidding trespass are displayed at intervals not greater than one  
40 mile along the exterior boundaries and at all roads and trails

1 entering the lands, without first having obtained written  
2 permission from the owner of the lands or the owner's agent, or the  
3 person in lawful possession.

4 (k) Entering any lands, whether unenclosed or enclosed by  
5 fence, for the purpose of injuring any property or property rights  
6 or with the intention of interfering with, obstructing, or injuring  
7 any lawful business or occupation carried on by the owner of the  
8 land, the owner's agent or by the person in lawful possession.

9 (l) Entering any lands under cultivation or enclosed by fence,  
10 belonging to, or occupied by, another, or entering upon  
11 uncultivated or unenclosed lands where signs forbidding trespass  
12 are displayed at intervals not less than three to the mile along all  
13 exterior boundaries and at all roads and trails entering the lands  
14 without the written permission of the owner of the land, the  
15 owner's agent or of the person in lawful possession, and

16 (1) Refusing or failing to leave the lands immediately upon  
17 being requested by the owner of the land, the owner's agent or by  
18 the person in lawful possession to leave the lands, or

19 (2) Tearing down, mutilating, or destroying any sign,  
20 signboard, or notice forbidding trespass or hunting on the lands,  
21 or

22 (3) Removing, injuring, unlocking, or tampering with any lock  
23 on any gate on or leading into the lands, or

24 (4) Discharging any firearm.

25 (m) Entering and occupying real property or structures of any  
26 kind without the consent of the owner, the owner's agent, or the  
27 person in lawful possession.

28 (n) Driving any vehicle, as defined in Section 670 of the  
29 Vehicle Code, upon real property belonging to, or lawfully  
30 occupied by, another and known not to be open to the general  
31 public, without the consent of the owner, the owner's agent, or the  
32 person in lawful possession. This subdivision shall not apply to  
33 any person described in Section 22350 of the Business and  
34 Professions Code who is making a lawful service of process,  
35 provided that upon exiting the vehicle, the person proceeds  
36 immediately to attempt the service of process, and leaves  
37 immediately upon completing the service of process or upon the  
38 request of the owner, the owner's agent, or the person in lawful  
39 possession.

1 (o) Refusing or failing to leave land, real property, or structures  
2 belonging to or lawfully occupied by another and not open to the  
3 general public, upon being requested to leave by (1) a peace officer  
4 at the request of the owner, the owner's agent, or the person in  
5 lawful possession, and upon being informed by the peace officer  
6 that he or she is acting at the request of the owner, the owner's  
7 agent, or the person in lawful possession, or (2) the owner, the  
8 owner's agent, or the person in lawful possession. The owner, the  
9 owner's agent, or the person in lawful possession shall make a  
10 separate request to the peace officer on each occasion when the  
11 peace officer's assistance in dealing with a trespass is requested.  
12 However, a single request for a peace officer's assistance may be  
13 made to cover a limited period of time not to exceed 30 days and  
14 identified by specific dates, during which there is a fire hazard or  
15 the owner, owner's agent or person in lawful possession is absent  
16 from the premises or property. In addition, a single request for a  
17 peace officer's assistance may be made for a period not to exceed  
18 six months when the premises or property is closed to the public  
19 and posted as being closed. However, this subdivision shall not be  
20 applicable to persons engaged in lawful labor union activities  
21 which are permitted to be carried out on the property by the  
22 California Agricultural Labor Relations Act, Part 3.5  
23 (commencing with Section 1140) of Division 2 of the Labor Code,  
24 or by the National Labor Relations Act. For purposes of this  
25 section, land, real property, or structures owned or operated by any  
26 housing authority for tenants as defined under Section 34213.5 of  
27 the Health and Safety Code constitutes property not open to the  
28 general public; however, this subdivision shall not apply to  
29 persons on the premises who are engaging in activities protected  
30 by the California or United States Constitution, or to persons who  
31 are on the premises at the request of a resident or management and  
32 who are not loitering or otherwise suspected of violating or  
33 actually violating any law or ordinance.

34 (p) Entering upon any lands declared closed to entry as  
35 provided in Section 4256 of the Public Resources Code, if the  
36 closed areas shall have been posted with notices declaring the  
37 closure, at intervals not greater than one mile along the exterior  
38 boundaries or along roads and trails passing through the lands.

39 (q) Refusing or failing to leave a public building of a public  
40 agency during those hours of the day or night when the building

1 is regularly closed to the public upon being requested to do so by  
2 a regularly employed guard, watchman, or custodian of the public  
3 agency owning or maintaining the building or property, if the  
4 surrounding circumstances would indicate to a reasonable person  
5 that the person has no apparent lawful business to pursue.

6 (r) Knowingly skiing in an area or on a ski trail which is closed  
7 to the public and which has signs posted indicating the closure.

8 (s) Refusing or failing to leave a hotel or motel, where he or she  
9 has obtained accommodations and has refused to pay for those  
10 accommodations, upon request of the proprietor or manager, and  
11 the occupancy is exempt, pursuant to subdivision (b) of Section  
12 1940 of the Civil Code, from Chapter 2 (commencing with Section  
13 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For  
14 purposes of this subdivision, occupancy at a hotel or motel for a  
15 continuous period of 30 days or less shall, in the absence of a  
16 written agreement to the contrary, or other written evidence of a  
17 periodic tenancy of indefinite duration, be exempt from Chapter  
18 2 (commencing with Section 1940) of Title 5 of Part 4 of Division  
19 3 of the Civil Code.

20 (t) Entering upon private property, including contiguous land,  
21 real property, or structures thereon belonging to the same owner,  
22 whether or not generally open to the public, after having been  
23 informed by a peace officer at the request of the owner, the owner's  
24 agent, or the person in lawful possession, and upon being informed  
25 by the peace officer that he or she is acting at the request of the  
26 owner, the owner's agent, or the person in lawful possession, that  
27 the property is not open to the particular person; or refusing or  
28 failing to leave the property upon being asked to leave the property  
29 in the manner provided in this subdivision.

30 This subdivision shall apply only to a person who has been  
31 convicted of a violent felony, as specified in subdivision (c) of  
32 Section 667.5, committed upon the particular private property. A  
33 single notification or request to the person as set forth above shall  
34 be valid and enforceable under this subdivision unless and until  
35 rescinded by the owner, the owner's agent, or the person in lawful  
36 possession of the property.

37 (u) (1) Knowingly entering, by an unauthorized person, upon  
38 any airport operations area if the area has been posted with notices  
39 restricting access to authorized personnel only and the postings  
40 occur not greater than every 150 feet along the exterior boundary.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) By a fine not exceeding one hundred dollars (\$100).

(B) By imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or both, if the person refuses to leave the airport operations area after being requested to leave by a peace officer or authorized personnel.

(C) By imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or both, for a second or subsequent offense.

(3) As used in this subdivision the following definitions shall control:

(A) "Airport operations area" means that part of the airport used by aircraft for landing, taking off, surface maneuvering, loading and unloading, refueling, parking, or maintenance, where aircraft support vehicles and facilities exist, and which is not for public use or public vehicular traffic.

(B) "Authorized personnel" means any person who has a valid airport identification card issued by the airport operator or has a valid airline identification card recognized by the airport operator, or any person not in possession of an airport or airline identification card who is being escorted for legitimate purposes by a person with an airport or airline identification card.

(C) "Airport" means any facility whose function is to support commercial aviation.

(v) Refusing or failing to leave a battered women's shelter at any time after being requested to leave by a managing authority of the shelter.

(1) A person who is convicted of violating this subdivision shall be punished by imprisonment in a county jail for not more than one year.

(2) The court may order a defendant who is convicted of violating this subdivision to make restitution to a battered woman in an amount equal to the relocation expenses of the battered woman and her children if those expenses are incurred as a result of trespass by the defendant at a battered women's shelter.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

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